



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**Privacy Act of 1974; System of Records**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of a New System of Records.

**SUMMARY:** The Federal Communications Commission (FCC or Commission or Agency) proposes to add a new system of records, FCC/WCB-2, Toll Free Number Auction System, to its inventory of records systems subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the Agency. As its initial undertaking, the system will collect and process the bidder information necessary to administer the auction of approximately 17,000 numbers in the 833 toll free code ("833 Auction"). The FCC has established Somos, Inc., the Toll Free Numbering Administrator ("Somos"), as the auctioneer of the 833 Auction.

**DATES:** This system of records will become effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Written comments on the system's routine uses are due by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The routine uses will become effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, unless written comments are received that require a contrary determination.

**ADDRESSES:** Send comments to Leslie F. Smith, Privacy Manager, Information Technology (IT), Room 1-C216, Federal Communications Commission, 445 12th Street SW, Washington, D.C. 20554, or to [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** Leslie F. Smith, (202) 418-0217, or [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov) (and to obtain a copy of the Narrative Statement that includes details of this proposed new system of records).

**SUPPLEMENTARY INFORMATION:** In an order it released on September 27, 2018, the Commission established a framework for the auctioning of certain numbers in the recently-opened 833 toll free code and appointed Somos as the auctioneer of these numbers. Toll Free Assignment Modernization, Toll Free Access Codes, WC Docket No. 17-192, CC Docket No. 95-155, Report and Order, 33 FCC Rcd 9274 (2018). This auction is an experiment in the use of competitive bidding to assign toll free numbers, and is the first time the FCC will allocate toll free telephone numbers via an auction process. In order to make sure that the 833 Auction is conducted in a fair and transparent manner, parties interested in participating in the auction (which may include “individuals” as that term is defined in the Privacy Act) will be required to disclose certain information and make certain certifications during an application process. This information will be used to determine the parties’ eligibility to participate in the auction and to administer the 833 Auction, including the awarding of numbers to winning bidders. In addition, this system will also include information about parties that subsequently purchase auctioned numbers in the secondary market. This system of records includes both the 833 Auction and possible future auctions of telephone numbers that may be conducted in a similar manner.

**SYSTEM NAME AND NUMBER:**

FCC/WCB-2, Toll Free Number Auction System.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION(S):**

Federal Communications Commission (FCC), 445 12<sup>th</sup> Street, SW, Washington, DC 20554;  
for the 833 Auction described in the “Supplementary Information” section above, the system will be located at Somos Corporation, 2411 Dulles Corner Park, Suite 250, Herndon, VA 20171.

**SYSTEM MANAGER(S):**

Wireline Communication Bureau (WCB), Federal Communications Commission (FCC), 445 12<sup>th</sup> Street, SW, Washington, DC 20554;

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Section 251(e) of the Communications Act of 1934, as amended, gives the FCC authority to create or designate impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. 47 U.S.C. 251(e). Pursuant to this authority, the Commission has issued rules on the administration of toll free numbering. 47 CFR 52.101-111. These rules allow the Commission to assign toll free numbers using a variety of methods, including competitive bidding. 47 CFR 52.111.

**PURPOSE(S) OF THE SYSTEM:**

The purpose of this system is to assign toll free numbers in a market-based and equitable manner. It flows from and is consistent with the FCC's statutory responsibility to administer telecommunications numbering. In order to carry out this purpose, the FCC-designated auctioneer will collect information from parties that are interested in bidding for toll free numbers, will take steps to verify the parties' identities, and will determine whether the parties are eligible to participate in auctions such as the 833 Auction. Interested parties will also be required to certify that they will follow the rules that the FCC has established to ensure a fair and transparent auction process. The auctioneer will then use the information to conduct the auction and collect payments from winning bidders. In addition, this system will also include information about parties that subsequently purchase auctioned numbers in the secondary market.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The categories of individuals in this system include, but are not limited to, individuals who have registered for an auction identification number, filled out an auction application form, and actually participated in toll free number auctions such as the 833 Auction. It may also include individuals who purchase auctioned numbers in the secondary market.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The categories of records in this system include, but are not limited to, names, physical address, e-mail address, telephone number, and an assigned unique identifying number for each auction applicant and for individuals who purchase auctioned numbers in the secondary market.

**RECORD SOURCE CATEGORIES:**

The sources for the majority of information in this system of records are the individual applicants interested in participating in toll free number auctions such as the 833 Auction. In order to ensure that the auction operates in a fair manner, the auctioneer may use a commercial identity verification service to verify the identity of individuals when they initially register for the auctions.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. Public Access – In accordance with auction rules published by the Commission, the identities of auction applicants may be disclosed prior to auctions such as the 833 Auction. Additional information related to the numbers on which auction participants bid and the amount of such bids may be released after the auction has concluded.
2. Third-Party Identity Verification Service – To a third-party commercial identity verification service when individuals attempt to register for toll free number auctions such as the 833 Auction, in order to determine that the registrant is a real person.
3. Adjudication and Litigation – To disclose information to the Department of Justice (DOJ), or to a court or adjudicative body before which the FCC is authorized to appear, when: (a) the FCC or any component thereof; or (b) any employee of the FCC in his or her official capacity; or (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC have agreed to represent the employee; or (d) the United States is a party to litigation or have an interest in such litigation, and the use of such records by the DOJ or the FCC is deemed by the FCC to be relevant and necessary to the litigation.

4. Law Enforcement and Investigation – To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation or order, where the FCC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.
5. Congressional Inquiries – To provide information to a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the written request of that individual.
6. Government-wide Program Management and Oversight – To disclose information to the National Archives and Records Administration (NARA) for use in its records management inspections; to the Government Accountability Office (GAO) for oversight purposes; to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.
7. Breach Notification – To appropriate agencies, entities, and persons when: (a) the Commission suspects or has confirmed that there has been a breach of the system of records; (b) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
8. Assistance to Federal Agencies and Entities – To another Federal agency or Federal entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its

information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

9. FCC/Auctioneer Program Management: – To FCC and auctioneer employees to conduct official duties associated with the management and operation of toll free number auctions such as the 833 Auction, as directed by the Commission.
10. Third Party Contractors – To an employee of a third-party contractor or subcontractor engaged by the FCC or the auctioneer to, among other things, develop and test the web-based auction application, store and process bidder registration and application information in a cloud-based computing environment, and operate the actual auction process.
11. Audits and Investigations – To auditors or other investigative personnel hired by the FCC or the auctioneer to examine, among other topics, 1) the performance of the auctioneer in toll free number auctions such as the 833 Auction, and 2) the efficiency and integrity of toll free number auctions such as the 833 Auction.

#### **REPORTING TO A CONSUMER REPORTING AGENCY:**

In addition to the routine uses listed above, the Commission may share information from this system of records with a consumer reporting agency regarding an individual who has not paid a valid and overdue financial debt owed to the Commission, following the procedures set out in the Debt Collection Act, 31 U.S.C. 3701(e).

#### **POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Information in this system of records will include primarily electronic records, files, and documents pertaining to toll free number auctions such as the 833 Auction. The FCC, the auctioneer, and their contractors and subcontractors, as applicable, will jointly manage the electronic data.

A limited number of paper records, files, and documents will be maintained for various, short-term uses, as necessary. These documents will be stored in file cabinets in FCC offices and at the offices of the

auctioneer and their contractors or subcontractors. The information in the paper formats will be secured in file cabinets and other storage facilities are locked when not in use and/or at the end of the business day. These paper documents are destroyed by shredding when no longer needed. Records are maintained in secure, limited access areas.

#### **POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Information in this system can be retrieved by various identifiers, including, but not limited to, the individual applicant's name, physical address, e-mail address, telephone number, or auction identification number.

#### **POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

The FCC is developing a records retention and disposal schedule for these records that will be submitted to the National Archives and Records Administration (NARA) for review and approval. No records will be destroyed until NARA has approved this new records schedule.

#### **ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

The electronic data, records, and files will be stored within the auctioneer's accreditation boundaries.

The FCC will oversee the auctioneer's management of this system. Access to the electronic files is restricted to the FCC staff and its contractors and subcontractors, and to the employees of the auctioneer and its contractors and subcontractors, who carry out the auction activities. Other FCC employees, auctioneer employees, contractors and subcontractors may be granted access only on a need-to-know basis. The data are protected by the auctioneer's security safeguards, a comprehensive and dynamic set of information technology (IT) safety and security protocols and features that are designed to meet all Federal IT standards, including, but not limited to, those required by the Federal Information Security Modernization Act of 2014 (FISMA), the Office of Management and Budget (OMB), and the National Institute of Standards and Technology (NIST). The electronic files and records are destroyed by electronic erasure or destruction, as applicable, when no longer needed.

Employees of the FCC and of the auctioneer may print paper copies of these electronic records for various, short-term uses, as necessary. These paper document copies are stored in locked file cabinets

when not in use. Physical entry by unauthorized persons where this information is stored is restricted through use of locks, passwords, and other security measures. Only authorized FCC and auctioneer employees may have access to these documents. These paper documents are destroyed by shredding when no longer needed.

#### **RECORDS ACCESS PROCEDURES:**

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedure below.

#### **CONTESTING RECORDS PROCEDURES:**

Individuals wishing to request access to and/or amendment of records about them should follow the Notification Procedure below.

#### **NOTIFICATION PROCEDURES:**

Individuals wishing to determine whether this system of records contains information about them may do so by writing to Leslie F. Smith, Privacy Manager, Information Technology, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, Washington, DC 20554, or e-mail [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

Individuals must furnish reasonable identification by showing any two of the following: social security card; passport; driver's license; employee identification card; Medicare card; birth certificate; bank credit card; and/or other positive means of identification, or by signing an identity statement stipulating that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to \$5,000.

Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity and access to records (47 CFR Part 0, Subpart E).

#### **EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

#### **HISTORY:**

This is a new system of records.

Federal Communications Commission.



**Marlene Dortch,**

*Secretary.*

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